

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 02-2178

HARALD SCHMIDT,

Plaintiff - Appellant,

versus

UNITED STATES POSTAL SERVICE,

Defendant - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Gerald Bruce Lee, District Judge. (CA-02-857-A)

Submitted: February 20, 2003

Decided: February 26, 2003

Before LUTTIG, MOTZ, and GREGORY, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Harald Schmidt, Appellant Pro Se. Dennis Edward Szybala, Assistant United States Attorney, Alexandria, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Harald Schmidt appeals the district court's order dismissing without prejudice his civil action for failure to exhaust administrative remedies.* We have reviewed the record and find no reversible error. Accordingly, we affirm on the reasoning of the district court. See Schmidt v. United States Postal Serv., No. CA-02-857-A (E.D. Va. filed Aug. 2, 2002, and entered Aug. 7, 2002). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED

* Generally, dismissals without prejudice are not appealable. Domino Sugar Corp. v. Sugar Workers Local Union 392, 10 F.3d 1064, 1066 (4th Cir. 1993). However, a dismissal without prejudice could be final if no amendment to the complaint could cure the defects in the plaintiff's case. Id. at 1066-67. We find that the district court's order is a final, appealable order because the defect in the complaint—failure to exhaust administrative remedies—had to be cured by something more than an amendment to the complaint. Id.